

individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 231a(a)(1) of this title, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

(2) The lump sum provided under subdivision (1)¹ of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 231b(i)(4) of this title if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986 [26 U.S.C. 3201(b)].

(Aug. 29, 1935, ch. 812, §6, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1334; amended Pub. L. 97-35, title XI, §1121, Aug. 13, 1981, 95 Stat. 637; Pub. L. 98-76, title IV, §408, Aug. 12, 1983, 97 Stat. 435; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-647, title VII, §7301, Nov. 10, 1988, 102 Stat. 3776; Pub. L. 105-277, div. A, §101(f) [title VII, §709(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-391; Pub. L. 107-90, title I, §103(i)(1), (4), Dec. 21, 2001, 115 Stat. 882.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Retirement Act of 1937, referred to in subsec. (c)(2), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, which was classified principally to subchapter III (§228a et seq.) of this chapter. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to this subchapter. For complete classification of these Acts to the Code, see Tables.

Sections 1, 3, 5, and 21 of the Railroad Retirement Act of 1937, referred to in subsecs. (b)(1), (c)(2), and (d)(2), which were classified to sections 228a, 228c, 228e, and 228s-2 of this title, have been omitted from the Code.

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107-90, §103(i)(4), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “but who (i) will have completed ten years of service”.

¹ So in original. Probably should be subdivision “(1)”.

Subsec. (e)(1). Pub. L. 107-90, §103(i)(1), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

1998—Subsec. (c)(1). Pub. L. 105-277, §101(f) [title VII, §709(a)(1)], inserted “(other than to a survivor in the circumstances described in paragraph (3))” after “no further benefits shall be paid” in last sentence.

Subsec. (c)(3). Pub. L. 105-277, §101(f) [title VII, §709(a)(2)], added par. (3).

1988—Subsec. (e). Pub. L. 100-647 added subsec. (e).

1986—Subsec. (c)(2). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing.

1983—Subsec. (b)(1). Pub. L. 98-76 inserted provision that no lump sum shall be payable under this subdivision if employee died leaving a surviving divorced wife who would on proper application therefore be entitled to receive an annuity under section 231a(d) of this title for month in which employee's death occurred.

1981—Subsec. (a)(3). Pub. L. 97-35, §1121(a), substituted “spouse or divorced wife of an individual but which will not have been paid at the time of such spouse's or divorced wife's death” for “spouse of an individual but which will not have been paid at the time of such spouse's death”.

Subsec. (b)(2)(iii). Pub. L. 97-35, §1121(b), substituted “widow, surviving divorced wife,” for “widow,”.

Subsec. (c)(1). Pub. L. 97-35, §1121(c)(1), inserted provision that after a lump sum with respect to the death of an employee is paid pursuant to an election filed with the Board under the provisions of this subsection, no further benefits shall be paid under this subchapter or the Social Security Act on the basis of such employee's compensation and service under this subchapter, except that nothing in this subchapter or the Social Security Act shall operate to deprive a widow, widower, or parent making such election of any insurance benefit under title II of the Social Security Act to which such individual would have been entitled if the employee had not rendered service as an employee under this subchapter.

Subsec. (c)(2). Pub. L. 97-35, §1121(c)(3), substituted “spouse or divorced wife” for “spouse”.

Pub. L. 97-35, §1121(c)(2), substituted “any supplemental annuity payments made to the employee under section 231a(b) of this title or section 3(j) of the Railroad Retirement Act of 1937, any amounts” for “any amounts”.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(f) [title VII, §709(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-391, provided that: “The amendment made by this section [amending this section] shall apply with respect to any benefits paid before the date of enactment of this Act [Oct. 21, 1998] as well as to benefits payable on or after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1121(c)(1), (2) of Pub. L. 97-35 effective Jan. 1, 1975, and amendment by other provisions of section 1121 of Pub. L. 97-35, effective Oct. 1, 1981, and applicable only with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

§ 231f. Railroad Retirement Board

(a) Administration

This subchapter shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] as an independent agency in the execu-

tive branch of the Government and composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and any member holding office pursuant to appointment under the Railroad Retirement Act of 1937 when this subchapter becomes effective shall hold office until the term for which he was appointed under such Railroad Retirement Act of 1937 expires. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 231(a)(1) of this title, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned. One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

(b) Powers and duties

(1) The Board shall have and exercise all the duties and powers necessary to administer this subchapter. The Board shall take such steps as may be necessary to enforce such subchapter and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to annuities or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

(2) In the case of—

(A) an individual who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) creditable under this subchapter,

(B) the wife or divorced wife or husband of such an individual,

(C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 231a of this title, and

(D) any other person entitled to benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry at the time of his death);

the Board shall provide for the payment on behalf of the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of

monthly benefits payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] which are certified by the Secretary to it for payment under the provisions of title II of the Social Security Act.

(3) If the Board finds that an applicant is entitled to an annuity or death benefit under the provisions of this subchapter then the Board shall make an award fixing the amount of the annuity or benefit, as the case may be, and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied. For purposes of this section, the Board shall have and exercise such of the powers, duties and remedies provided in subsections (a), (b), (d), and (n) of section 12 of the Railroad Unemployment Insurance Act [45 U.S.C. 362] as are not inconsistent with the express provisions of this subchapter. The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this subchapter, excluding only the power to prescribe rules and regulations, including the power to make decisions on applications for annuities or other benefits: *Provided, however,* That any person aggrieved by a decision on his application for an annuity or other benefit shall have the right to appeal to the Board. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made.

(4)(A) The Secretary of the Treasury shall serve as the disbursing agent for benefits payable under this subchapter, under such rules and regulations as the Secretary may in the Secretary's discretion prescribe.

(B) The Board shall from time to time certify—

(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

(ii) to the Board of Trustees of the National Railroad Retirement Investment Trust the amounts required to be transferred from the National Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.

(5) The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of this subchapter. All rules, regulations, or decisions of the Board shall require the approval of at least two members, and they shall be entered upon the records of the Board, which shall be a public record.

(6) The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of this subchapter, including subdivision (2) of this subsection. The Board shall

have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this subchapter, including subdivision (2) of this subsection. The several district courts of the United States shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the United States District Court for the District of Columbia in such suits may run and be served anywhere in the United States. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress.

(7) Notwithstanding any other provision of law, the Secretary of Health and Human Services shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this subchapter, the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.],¹ the Milwaukee Railroad Restructuring Act [45 U.S.C. 901 et seq.], and the Rock Island Railroad Transition and Employee Assistance Act [45 U.S.C. 1001 et seq.].¹ The Board shall furnish the Secretary of Health and Human Services certified reports of records of compensation and periods of service reported to it pursuant to section 231h of this title, of determinations under section 231a of this title, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act [42 U.S.C. 301 et seq.] as affected by section 231q of this title. Such certified reports shall be conclusive in adjudication as to the matters covered therein: *Provided, however,* That if the Board or the Secretary of Health and Human Services receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health and Human Services, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

(8) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances pay-

able, on the periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subdivision shall be conclusive on the Board: *Provided, however,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertification, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

(9) The Board shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this subchapter or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.], or both, the Board may place, without regard to the numerical limitations contained in section 5108(c)(9)² of title 5, four positions in grade GS-16 of the General Schedule established by that Act, four positions in grade GS-17 of such schedule, and one position in grade GS-18 of such schedule.

(c) Sources of payments; adjustments

(1) Benefit payments determined by the Board to be payable under this subchapter shall be made by the disbursing agent under subsection (b)(4) of this section from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be, except that payments of annuity amounts made under sections 231b(h), 231c(e), and 231c(h) of this title and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made by the disbursing agent under subsection (b)(4) of this section from money transferred to it from the Dual Benefits Payments Account. In any fiscal year, the total amounts paid under such sections

¹ So in original.

² See References in Text note below.

shall not exceed the total sums appropriated to the Dual Benefits Payments Account for that fiscal year. The Board shall prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 231b(h), 231c(e), and 231c(h) of this title and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that the sums appropriated to the Dual Benefits Payments Account for a fiscal year so far as practicable, are expended in equal monthly installments throughout such fiscal year, and are distributed so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bear to the total sums necessary to pay such annuity amounts without regard to such regulations. Notwithstanding any other provision of law, the entitlement of an individual to an annuity amount under section 231b(h), 231c(e), or 231c(h) of this title or section 204(a)(3), 204(a)(4), 206(3), or 207(3) of Public Law 93-445 for any month in which the amount payable to such individual is allocated under the regulations prescribed by the Board under this subsection shall not exceed the amount so allocated for that month to such individual.

(2) At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board and the Secretary of Health and Human Services shall determine the amounts, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would place each such Trust Fund in the same position in which it would have been if (A) service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act [42 U.S.C. 301 et seq.] and in the Federal Insurance Contributions Act [26 U.S.C. 3101 et seq.] and (B) this subchapter had not been enacted. Such determination with respect to each such Trust Fund shall be made no later than June 15 following the close of the fiscal year. If, pursuant to any such determination, any amount is to be added to any such Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account to such Trust Fund. If, pursuant to any such determination, any amount is to be subtracted from any such Trust Fund, the Secretary of Health and Human Services shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from such Trust Fund to the Railroad Retirement Account. Any amounts so certified shall further include interest (at the rate determined in subdivision (3) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund or to any such

Trust Fund from the Railroad Retirement Account, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health and Human Services pursuant to the provisions of this subdivision and certified by the Board or the Secretary of Health and Human Services for transfer from any such Trust Fund or from the Railroad Retirement Account.

(3) For purposes of subdivision (2), for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) After the end of each month beginning with the month of October 1983, the Board shall determine the net amount, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would, with respect to such month, place those Trust Funds, taken as a whole, in the same position in which they would have been if (A) service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act [42 U.S.C. 301 et seq.] and in the Federal Insurance Contributions Act [26 U.S.C. 3101 et seq.], and (B) this subchapter had not been enacted. If for any month the net amount so determined would be subtracted from those Trust Funds, the Board shall, within ten days after the end of such month, report such amount to the Secretary of the Treasury for transfer from the general fund to the Railroad Retirement Account. Any amount so reported shall further include interest (at an annual rate equal to the rate of interest borne by a special obligation issued to the Railroad Retirement Account in the month in which the transfer is made to the Account) payable from the close of the month for which the transfer is made until the date of transfer. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the general fund such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subdivision and reported by the Board for transfer. For such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued after August 12, 1983, under section 3102 of title 31, and the purpose for which securities may be issued under section 3102 of title 31 are extended to include such purpose. Each such transfer shall be made by the Secretary of the Treasury within five days after a report of the amount to be transferred is received. Not later than December 31 following the close of each fiscal year beginning with the fiscal year ending September 30, 1984, the Board shall certify to the Secretary of the Treasury the total of all amounts transferred pursuant to the provisions of this subdivision for months in such fiscal year. Within ten days after a trans-

fer, or transfers, pursuant to subdivision (2) for a particular fiscal year, the Board shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Account to the general fund an amount equal to (A) the total of all amounts, exclusive of interest, transferred to such Account pursuant to the provisions of this subdivision for months in such fiscal year, plus (B) interest (at the rate determined in subdivision (3) for such fiscal year) payable with respect to each amount transferred for a month during such fiscal year from the close of the month for which the transfer of the amount was made until the date of retransfer of such amount. The Secretary of the Treasury is authorized and directed to retransfer from the Railroad Retirement Account to the general fund such amounts as, from time to time, may be determined by the Board pursuant to the provisions of the preceding sentence of this subdivision and reported by the Board for retransfer.

(d) Hospital insurance benefits; certified beneficiaries; disability insurance benefits; services in Canada; exchange of information

(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, home health services, hospice care, and outpatient hospital diagnostic services (all hereinafter referred to as “services”) under section 226 [42 U.S.C. 426], and parts A and E of title XVIII [42 U.S.C. 1395c et seq., 1395x et seq.], of the Social Security Act as the Secretary of Health and Human Services has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 231g of this title, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(2) Except as otherwise provided in this subsection, every person who—

(i) has attained age 65 and (A) is entitled to an annuity under this subchapter or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse or divorced wife, had such spouse’s husband or wife ceased compensated service or (C) bears a relationship to an employee which, by reason of section 231b(f)(2) of this title, has been, or would be, taken into account in calculating the amount of the annuity of such employee; or

(ii) has not attained age 65 and (A) has been entitled to an annuity under section 231a of this title, or under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] and section 231a of this title, or could have been includible in the computation of an annuity under section 231b(f)(2) of this title, for not less than 24 months and (B) could have been entitled for 24 calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act [42 U.S.C. 423] or under section 202 of that Act [42 U.S.C. 402] on the basis of disability if service as an

employee after December 31, 1936, had been included in the term “employment” as defined in that Act and if an application for disability benefits had been filed,

shall be certified to the Secretary of Health and Human Services as a qualified railroad retirement beneficiary under section 226 of the Social Security Act [42 U.S.C. 426].

(3) If an individual entitled to an annuity under paragraph (iv) or (v) of section 231a(a)(1) of this title would have been insured for disability insurance benefits as determined under section 223(c)(1) of the Social Security Act [42 U.S.C. 423(c)(1)] at the time such annuity began, he shall be deemed, solely for purposes of paragraph (ii) of subdivision (2), to be entitled to a disability insurance benefit under section 223 of the Social Security Act for each month, and beginning with the first month, in which he would meet the requirements for entitlement to such a benefit, other than the requirement of being insured for disability insurance benefits, if service as an employee after December 31, 1936, had been included in the term “employment” as defined in the Social Security Act [42 U.S.C. 301 et seq.] and if an application for disability benefits had been filed.

(4) The rights of individuals described in subdivision (2) of this subsection to have payment made on their behalf for the services referred to in subdivision (1) but provided in Canada shall be the same as those of individuals to whom section 226 [42 U.S.C. 426] and part A of title XVIII [42 U.S.C. 1395c et seq.] of the Social Security Act apply, and this subdivision shall be administered by the Board as if the provisions of section 226 and part A of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health and Human Services were to the Board, as if references to the Federal Hospital Insurance Trust Fund were to the Railroad Retirement Account, as if references to the United States or a State included Canada or a subdivision thereof, and as if the provisions of sections 1862(a)(4), 1863, 1864, 1868, 1869, 1874(b), and 1875 [42 U.S.C. 1395y(a)(4), 1395z, 1395aa, 1395ee, 1395ff, 1395kk(b), 1395ll] were not included in such title. The payments for services herein provided for in Canada shall be made from the Railroad Retirement Account (in accordance with, and subject to, the conditions applicable under subsection (b) of this section, in making payment of other benefits) to the hospital, extended care facility, or home health agency providing such services in Canada to individuals to whom subdivision (2) of this subsection applies, but only to the extent that the amount of payments for services otherwise hereunder provided for an individual exceeds the amount payable for like services provided pursuant to the law in effect in the place in Canada where such services are furnished. For the purposes of section 231i of this title, any overpayment under this subdivision shall be treated as if it were an overpayment of an annuity.

(5) The Board and the Secretary of Health and Human Services shall furnish each other with such information, records, and documents as may be considered necessary to the administration of this subsection or section 226 [42 U.S.C.

426], and part A of title XVIII [42 U.S.C. 1395c et seq.], of the Social Security Act.

(e) Acceptance of gifts and bequests

The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Railroad Retirement Account, to the Railroad Retirement Supplemental Account, or to the Railroad Unemployment Insurance Account, or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the Railroad Retirement Account.

(f) Congressional copies of documents submitted or transmitted to President or Office of Management and Budget

Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, or comment on legislation to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(Aug. 29, 1935, ch. 812, § 7, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1338; amended Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96-101, § 10(h), Nov. 4, 1979, 93 Stat. 742; Pub. L. 96-254, title I, § 106(f), May 30, 1980, 94 Stat. 402, as amended Pub. L. 96-448, title VII, § 701(b)(1), Oct. 14, 1980, 94 Stat. 1960; Pub. L. 96-265, title I, § 103(a)(4), June 9, 1980, 94 Stat. 444; Pub. L. 96-499, title IX, § 930(r), Dec. 5, 1980, 94 Stat. 2633; Pub. L. 97-35, title XI, § 1122, Aug. 13, 1981, 95 Stat. 638; Pub. L. 97-248, title I, § 122(a)(2), Sept. 3, 1982, 96 Stat. 356; Pub. L. 98-76, title III, § 301(a), title IV, § 416, Aug. 12, 1983, 97 Stat. 430, 436; Pub. L. 98-369, div. B, title III, § 2349(b)(2), July 18, 1984, 98 Stat. 1097; Pub. L. 105-33, title IV, § 4002(f)(1), Aug. 5, 1997, 111 Stat. 329; Pub. L. 107-90, title I, §§ 103(i)(2), 104(a)(2)(B), 106(a), 107(e), (f), Dec. 21, 2001, 115 Stat. 882, 887, 889; Pub. L. 108-173, title I, § 101(e)(1), Dec. 8, 2003, 117 Stat. 2150; Pub. L. 109-305, § 2, Oct. 6, 2006, 120 Stat. 1719.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsecs. (a) and (d)(2)(ii), is act Aug. 29, 1935, ch. 812, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, which was classified principally to subchapter III (§ 228a et seq.) of this chapter. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to

this subchapter. For complete classification of these Acts to the Code, see Tables.

The Social Security Act, referred to in subsecs. (b)(2), (7), (c)(2), (4), and (d)(1), (3) to (5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42. Parts A and E of title XVIII of the Social Security Act are classified generally to Parts A (§ 1395c et seq.) and E (1395x et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (b)(7), (9), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Milwaukee Railroad Restructuring Act, referred to in subsec. (b)(7), is Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 736, which is classified principally to chapter 18 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

The Rock Island Railroad Transition and Employee Assistance Act, referred to in subsec. (b)(7), is title I of Pub. L. 96-254, May 30, 1980, 94 Stat. 399, which is classified principally to chapter 19 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 5108(c)(9) of title 5, referred to in subsec. (b)(9), was repealed by Pub. L. 95-454, § 414(a)(1)(A), Oct. 13, 1978, 92 Stat. 1177.

Sections 204, 206, and 207 of Pub. L. 93-445, referred to in subsec. (c)(1), are set out as part of a Transitional Provisions note under section 231 of this title.

The Federal Insurance Contributions Act, referred to in subsec. (c)(2), (4), is act Aug. 16, 1954, ch. 736, §§ 3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, which is classified generally to chapter 21 (§ 3101 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3128 of Title 26 and Tables.

CODIFICATION

As originally enacted, the third sentence of subsec. (b)(6) of this section contained words “and the District Court of the United States for the District of Columbia” after “the several district courts of the United States”. The words “and the District Court of the United States for the District of Columbia” have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district” and section 88 of the Title 28 which states that “the District of Columbia constitutes one judicial district”.

In the fourth sentence of subsec. (b)(6) of this section, “United States District Court for the District of Columbia” substituted for “District Court of the United States for the District of Columbia” in conformity with similar changes made throughout the Code pursuant to section 32(b) of act June 25, 1948, ch. 646, as amended by act May 24, 1949, ch. 139, § 127, 63 Stat. 107, which provided for such substitution to be made in all laws of the United States in force on September 1, 1948. See note captioned “Circuit Court of Appeals:” “Senior Circuit Judge,” Etc. Defined, set out under section 451 of Title 28, Judiciary and Judicial Procedure.

In subsec. (b)(9), “section 5108(c)(9) of title 5” substituted for “section 505 of the Classification Act of 1949, as amended”, on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Section 505 of the Classification Act of 1949 had enacted section 1105 of former Title 5, Executive Departments and Government Officers and Employees.

August 12, 1983, referred to in subsec. (c)(4), was in the original “the date of enactment of this Act” which was translated as meaning the date of enactment of Pub. L. 98-76, which enacted subsec. (c)(4) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2006—Subsec. (b)(4)(A). Pub. L. 109-305 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The Railroad Retirement Board, after consultation with the Board of Trustees of the National Railroad Retirement Investment Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this subchapter who shall disburse consolidated benefits under this subchapter to each recipient. Pending the taking effect of that arrangement, benefits shall be paid as under the law in effect prior to December 21, 2001.”

2003—Subsec. (d)(1). Pub. L. 108-173 substituted “parts A and E” for “parts A and D”.

2001—Subsec. (b)(2)(A). Pub. L. 107-90, §103(i)(2), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

Subsec. (b)(4). Pub. L. 107-90, §107(e), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Fiscal Service of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.”

Subsec. (c)(1). Pub. L. 107-90, §107(f), substituted “by the disbursing agent under subsection (b)(4) of this section from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be” for “from the Railroad Retirement Account” and inserted “by the disbursing agent under subsection (b)(4) of this section from money transferred to it” after “Public Law 93-445 shall be made”.

Pub. L. 107-90, §106(a), struck out “payments of supplemental annuities under section 231a(b) of this title shall be made from the Railroad Retirement Supplemental Account, and” before “payments of annuity amounts made under sections 231b(h),”.

Subsec. (d)(2)(i), (ii). Pub. L. 107-90, §104(a)(2)(B), substituted “section 231b(f)(2)” for “section 231b(f)(3)”.

1997—Subsec. (d)(1). Pub. L. 105-33 substituted “parts A and D of title XVIII” for “parts A and C of title XVIII”.

1984—Subsec. (d)(4). Pub. L. 98-369 struck out “1867,” after “1864,”.

1983—Subsec. (c)(4). Pub. L. 98-76, §301(a), added par. (4).

Subsec. (f). Pub. L. 98-76, §416, added subsec. (f).
1982—Subsec. (d)(1). Pub. L. 97-248 inserted “hospice care,” after “home health services,”.

1981—Subsec. (b)(2)(B). Pub. L. 97-35, §1122(a)(1), substituted “wife or divorced wife” for “wife”.

Subsec. (b)(7). Pub. L. 97-35, §1122(a)(2), inserted reference to the Railroad Unemployment Insurance Act.

Subsec. (c)(1). Pub. L. 97-35, §1122(c), inserted provisions relating to payment of annuity amounts from the Dual Benefits Payments Account, authorization of Board to prescribe regulations for allocation of annuity amounts, and maximum limits on entitlement of an individual to an annuity amount.

Subsec. (d)(2)(i)(C). Pub. L. 97-35, §1122(b)(2), added cl. (C).

Pub. L. 97-35, §1122(b)(1), substituted “spouse or divorced wife” for “spouse”.

1980—Subsec. (b)(7). Pub. L. 96-254, as amended by Pub. L. 96-448, inserted reference to the Rock Island Railroad Transition and Employee Assistance Act.

Subsec. (d)(1). Pub. L. 96-499 substituted “home health services” for “posthospital home health services”.

Subsec. (d)(2)(ii). Pub. L. 96-265 substituted “24 months” and “24 calendar months” for “24 consecutive months” and “24 consecutive calendar months”, respectively.

1979—Subsec. (b)(7). Pub. L. 96-101 substituted “Notwithstanding any other provision of law, the Secretary” for “The Secretary” and inserted “and the Milwaukee Railroad Restructuring Act” after “administration of this subchapter”.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsecs. (b)(7), (c)(2), and (d)(4) and (5) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 103(i) of Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

Amendment by section 104(a) of Pub. L. 107-90 effective Jan. 1, 2002, and applicable to annuity amounts accruing for months after Dec. 2001, see section 104(c) of Pub. L. 107-90, set out as a note under section 231b of this title.

Amendment by section 106(a) of Pub. L. 107-90 effective Jan. 1, 2002, see section 106(e)(1) of Pub. L. 107-90, set out as a note under section 231n of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, see section 2349(c) of Pub. L. 98-369, set out as a note under section 907a of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 301(c)(1) of Pub. L. 98-76 provided that: “The amendment made by subsection (a) of this section [amending this section] shall be effective on October 1, 1983.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to hospice care provided on or after Nov. 1, 1983, see section 122(h)(1)(A) of Pub. L. 97-248, as amended, set out as a note under section 1395c of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1122(a)(2), (b)(1), (c) of Pub. L. 97-35 effective Oct. 1, 1981, and amendment by other provisions of section 1122 of Pub. L. 97-35 effective Oct. 1, 1981, and applicable only with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-499 effective with respect to services furnished on or after July 1, 1981, see section 930(s)(1) of Pub. L. 96-499, set out as a note under section 1395x of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 96-448 effective Oct. 14, 1980, see section 710(d) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

Amendment by Pub. L. 96-265 applicable with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after first day of sixth month which begins after June 9, 1980, see section 103(c) of Pub. L. 96-265, set out as a note under section 426 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section 602(e) of Pub. L. 93-445 provided that: “The provisions of section 7(e) of the Railroad Retirement Act of 1974 [subsec. (e) of this section] shall be effective on the enactment date of this Act [Oct. 16, 1974] and

shall apply with respect to all gifts and bequests covered thereunder, regardless of the date on which such gifts or bequests were made.”

REPEALS

Section 106(f) of Pub. L. 96-254, cited as a credit to this section, was omitted in the complete revision of section 106 of Pub. L. 96-254 by Pub. L. 97-468, title II, § 231, Jan. 14, 1983, 96 Stat. 2543.

TRANSFER OF FUNCTIONS

“Fiscal Service” substituted for “Division of Disbursements” in subsec. (b)(4) on authority of section 1(a)(1) of 1940 Reorg. Plan No. III, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Treasury Department. See section 306 of Title 31, Money and Finance.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

Pub. L. 110-161, div. G, title IV, Dec. 26, 2007, 121 Stat. 2206, provided in part: “That funds made available under the heading in this Act [the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008, Pub. L. 110-161, div. G, see Tables for classification], or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.”

Pub. L. 105-277, div. A, § 101(f) [title IV], Oct. 21, 1998, 112 Stat. 2681-337, 2681-381, provided in part: “That none of the funds made available under this heading in this Act [probably means the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999, Pub. L. 105-277, div. A, § 101(f), Oct. 21, 1998, 112 Stat. 2681-337, see Tables for classification], or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-78, title IV, Nov. 13, 1997, 111 Stat. 1512.
 Pub. L. 104-208, div. A, title I, § 101(e) [title IV], Sept. 30, 1996, 110 Stat. 3009-233, 3009-268.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

DELEGATION OF REPORTING AUTHORITY

Memorandum of President of the United States, Feb. 9, 2005, 70 F.R. 7631, provided:

Memorandum for the Chairman of the Railroad Retirement Board

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 7(b)(6) of the Railroad Retirement Act [of 1974, 45 U.S.C. 231f(b)(6)] and section 12(l) of the Railroad Unemployment Insurance Act [45 U.S.C. 362(l)] to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 231f-1. Annual actuarial report

As part of the annual report required under section 231u(a) of this title, the Railroad Retirement Board shall submit to the Congress a report on the actuarial status of the railroad retirement system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including—

(1) any adjustment the Railroad Retirement Board recommends regarding the rates of taxes imposed by sections 3201(b), 3211(a)(2), and 3221(b) of the Internal Revenue Code of 1986 [26 U.S.C. 3201(b), 3211(a)(2), 3221(b)], and

(2) if there are sufficient reserves in the Railroad Retirement Account, whether—

(A) the rates of such taxes should be reduced, or

(B) any part of the tax imposed by section 3221(b) of such Code should be diverted to the Railroad Unemployment Insurance Account to aid in the repayment of its debt to the Railroad Retirement Account.

(Pub. L. 98-76, title V, § 502, Aug. 12, 1983, 97 Stat. 440; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104-66, title II, § 2221(a), Dec. 21, 1995, 109 Stat. 733.)

CODIFICATION

Section was enacted as part of the Railroad Retirement Solvency Act of 1983, and not as part of the Railroad Retirement Act of 1974 which comprises this subchapter.

AMENDMENTS

1995—Pub. L. 104-66 which directed the amendment of this section by substituting “As part of the annual report required under section 231u(a) of this title” for “On or before July 1, 1985, and each calendar year thereafter”, was executed by making the substitution for “On or before July 1 of 1985, and of each calendar year thereafter”, to reflect the probable intent of Congress.

1986—Par. (1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

§ 231g. Court jurisdiction

Decisions of the Board determining the rights or liabilities of any person under this subchapter shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] except that the time within which proceedings for the review of a decision with respect to an annuity, supplemental annuity, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant.

(Aug. 29, 1935, ch. 812, § 8, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1343.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in text, is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.